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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,689	07/21/2006	Katsumi Shibayama	046124-5427 4347	
	7590 12/04/200 DDLE & REATH (DC)	EXAMINER		
1500 K STREET, N.W. SUITE 1100			MAI, ANH D	
WASHINGTON, DC 20005-1209			ART UNIT	PAPER NUMBER
			2814	
			MAIL DATE	DELIVERY MODE
			12/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)			
	10/550,689	SHIBAYAMA, KATSUMI			
Office Action Summary	Examiner	Art Unit			
	Anh D. Mai	2814			
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPL' WHICHEVER IS LONGER, FROM THE MAILING D. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be time will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	l. lely filed the mailing date of this communication. (35 U.S.C. § 133).			
Status					
1)⊠ Responsive to communication(s) filed on <u>09 S</u>	eptember 2009				
	action is non-final.				
<i>i</i>	, 				
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) Claim(s) 1,3-5,12 and 15-17 is/are pending in 4a) Of the above claim(s) is/are withdray 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1,3-5,12 and 15-17 are subject to res	wn from consideration.	nt.			
Application Papers					
9)☐ The specification is objected to by the Examine	er.				
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the correct	tion is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).			
11)☐ The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the prio application from the International Burea * See the attached detailed Office action for a list	s have been received. s have been received in Application rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage			
Attachment(s) 1) ☐ Notice of References Cited (PTO-892)	4) Interview Summary				
Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

DETAILED ACTION

Status of the Claims

1. Amendment filed September 9, 2009, 2009 is acknowledged. Claims 2, 6-1113 and 14 have been cancelled. Claims 1, 3-5 and 12 have been amended. Claims 15-17 have been added. Claims 1, 3-5, 12 and 15-17 are pending.

Election/Restrictions

This application contains claims directed to the following patentably <u>distinct species</u>:
 Species 1 to 6, as shown in Fig. 13A to Fig. 14C.

Particularly, claim 1 is directed to species as shown in Fig. 14A or 14B and claim 3 is directed to species as shown in Fig. 13B or 13C.

These distinctions had been admitted by the Applicant in the Remarks filed September 9, 2009.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 3 are generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search

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queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh D. Mai whose telephone number is (571) 272-1710. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anh D. Mai/ Primary Examiner, Art Unit 2814